



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/981,696

10/16/2001

Eiji Kawai

09812.0174-00000

7316

22852

7590

02/24/2010

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP

901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER

OUELLETTE, JONATHAN P

ART UNIT

PAPER NUMBER

3629

MAIL DATE

DELIVERY MODE

02/24/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

1
2 UNITED STATES PATENT AND TRADEMARK OFFICE
3

4
5 BEFORE THE BOARD OF PATENT APPEALS
6 AND INTERFERENCES
7

8
9 *Ex parte* EIJI KAWAI
10

11
12 Appeal 2009-009093
13 Application 09/981,696
14 Technology Center 3600
15

16
17 Decided: February 24, 2010
18

19
20
21 *Before:* MURRIEL E. CRAWFORD, ANTON W. FETTING, and JOSEPH
22 A. FISCHETTI, *Administrative Patent Judges.*

23
24 CRAWFORD, *Administrative Patent Judge.*
25

26
27 DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. § 134 (2002) from a final rejection of claims 1 to 5, 8 to 14, 19 to 21, 24 to 32, and 35 to 45. We have jurisdiction under 35 U.S.C. § 6(b) (2002). Appellant appeared for oral hearing on February 4, 2010.

Appellant invented an electronic guide information processing system for electronically processing guide information (Spec. 1).

Claim 1 under appeal reads as follows:

1. An electronic guide information processing system for electronically processing guide information about a customers attracting facility having an entrance and an exit, the system comprising:

an information distributing apparatus for converting the guide information into electronic guide information, encrypting the electronic guide information, and then distributing the encrypted electronic guide information;

a portable terminal apparatus for recording the encrypted electronic guide information, decrypting the encrypted electronic guide information at the entrance, and presenting the electronic guide information to an information user; and

an information processing apparatus comprising an information collecting apparatus for collecting the electronic guide information from the portable terminal apparatus at the exit, the information processing apparatus erasing the electronic guide information from the portable terminal apparatus at the exit and writing in the portable terminal apparatus information about the information user's use of the customers attracting facility at the exit.

1 The prior art relied upon by the Examiner in rejecting the claims on
2 appeal is:

3 Gershman	US 6,401,085 B1	Jun. 4, 2002
4 Treyz	US 6,587,835 B1	Jul. 1, 2003

5 The Examiner rejected claims 1 to 5, 8 to 14, 19 to 21, 24 to 32,
6 and 35 to 45 under 35 U.S.C. § 103(a) as being unpatentable over Treyz in
7 view of Gershman.

8
9 **ISSUE**

10 Has Appellant shown that the Examiner erred in finding that Treyz
11 discloses an information processing apparatus that erases electronic guide
12 information from a portable terminal apparatus at the exit of a customer
13 attracting facility and writes, on the portable terminal apparatus, information
14 about the user's use of the customer attracting facility at the exit?

15
16 **FINDINGS OF FACT**

17 Treyz discloses a system based on handheld computing devices that
18 assist users in shopping and in performing wireless transactions (col. 1, ll. 6
19 to 9). The system allows users to obtain information regarding products
20 offered for sale using local and remote wireless links (col. 1, ll. 41 to 45).
21 The system may provide shopping assistance service which provides
22 information about current events through an information screen provided on
23 the handheld device (col. 2, ll. 57 to 63). The shopping assistance service
24 may be used to make financial transactions (col. 3, ll. 37 to 38). The
25 financial transactions may be monitored by continuously sending financial
26 transaction information to the handheld device (col. 46, ll. 9 to 42). The

1 shopping assistance service turns on automatically when the service detects
2 the handheld device's presence (col. 49, ll. 41 to 44).

3 The Examiner stated:

4 Treyz discloses . . . an information processing
5 apparatus comprising an information collecting
6 apparatus for collecting the electronic guide
7 information from the portable terminal apparatus at
8 the exit (collecting data is equivalent to
9 deleting/erasing the data as claimed in the next
10 step; C49, shopping assistance link
11 deleted/collected along with icon/descriptive
12 information—once user out of range or has exited
13 the facility). . . . Treyz does not expressly disclose
14 sending information to the user in a “batch” format
15 at a specific location (exit), Treyz does disclose
16 continuously sending financial transaction
17 information to the user device, indicating where
18 and what the user did with the system (C46 L9-
19 42). . . . Therefore, it would have been obvious to
20 one of ordinary skill in the art at the time the
21 invention was made to send the information to the
22 user at specific times and locations as a way to
23 decrease transmission costs.

24 (Ans. 3 to 4).

26 PRINCIPLES OF LAW

27 In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the
28 Examiner to establish a factual basis to support the legal conclusion of
29 obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988).

1 ANALYSIS

2 We will not sustain the Examiner's rejection. Although the Examiner
3 is correct that in the Treyz device information may be written to the
4 handheld device in batches and erased once the device is out of range, the
5 Examiner has not established that the writing to the device and the erasing of
6 the device occur at the exit. Treyz discloses that the information is erased
7 when the device is out of range but does not disclose that the device is out of
8 range at the exit. In addition, once out of range, it is not possible to write to
9 the device. Therefore, the erasing and writing does not occur at the same
10 location.

11
12 CONCLUSION OF LAW

13 On the record before us, Appellant has shown that the Examiner erred
14 in rejecting the claims.

15
16 DECISION

17 The Examiner's decision is reversed.

18
19 REVERSED

1 hh

2

3

4 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
5 LLP

6 901 NEW YORK AVENUE, NW

7 WASHINGTON, DC 20001-4413